

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE, NAGPUR BENCH, NAGPUR**

**CRIMINAL APPLICATION NO.2222 OF 2006
IN
CRIMINAL APPEAL NO.347 OF 2006**

Office Notes, Office Memoranda of :

Coram, appearances, Court's orders : Court's or Judge's Orders
and Registrar's orders

Mr. Firdos Mirza, Advocate for the applicant/appellant,

Mr. Y.B. Mandpe, APP for the respondent/State.

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Coram : K. J. Rohee & C. L. Pangarkar, JJ

Dated : 12th September, 2006

1. Heard the learned counsel for the applicant/appellant and the learned APP for the respondent/State.
2. The appellant was residing with his wife, son, daughter-in-law and two daughters namely Sunita and Sangita. It so happened that Sangita wanted to accompany her sister-in-law to her paternal house. However the appellant did not permit her and hence only the son of the appellant and the daughter-in-law of the appellant left the house. On that day the appellant, his wife and appellant's daughters Sunita and Sangita only remained at the house. During that night Sangita was burnt to death. The appellant, his wife and daughter (Sunita) were prosecuted for the

offence punishable under Section 302 r/w 34 of the Indian Penal Code. The wife and daughter (Sunita) of the appellant were acquitted by the trial court, whereas the appellant came to be convicted.

3. There is no direct evidence against the appellant. The only piece of evidence is that of discovery of the blood stained underwear of the appellant. It has been established that the group of the blood found on the underwear was 'A' whereas the blood group of deceased was also 'A' and that is why the trial Court held that the appellant was involved in the commission of the murder of Sangita. However, the blood group of the appellant has not been ascertained. In the absence of it, it is difficult to hold that the appellant must have been necessarily involved in the murder of his daughter Sangita. Secondly the appellant is quite old, so on this ground also, he deserves to be released on bail. Hence the order :

4. The application is allowed. The appellant be released on his executing P.R. For Rs.25,000/- with one surety in the like amount.

JUDGE

JUDGE

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